



IDAHO
DEPARTMENT OF FINANCE

100
1905 - 2005

Welcome

Licensing and Continuing Education

Tips and Pointers

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- State of Idaho, Department of Finance

Cumulative Loan Originator Licensing Statistics

Date *	Applications Received	Applications Not Yet Reviewed	Licenses Issued	Deficiency Letters Sent	Deficiency Ratio
January 5, 2006	147	0	54	104	71%
January 12, 2006	223	0	83	140	63%
January 19, 2006	298	0	147	191	64%
January 26, 2006	426	0	232	274	64%
February 2, 2006	528	18	310	337	66%
February 9, 2006	691	20	410	448	68%
February 16, 2006	1161	220	543	569	60%
February 23, 2006	1823	791	724	728	71%
March 2, 2006	3536	1764	1010	1079	61%
March 9, 2006	3899	275	1466	2247	75%
March 16, 2006	3992	407	1839	2352	66%
March 23, 2006	4072	273	2172	2433	64%
March 30, 2006	4163	313	2604	2819	74%

April 6, 2006	4231	224	3121	2853	71%
April 13, 2006	4293	299	3183	3002	72%

Do You Need A License?

■ Regardless of Your Job Title If You...

Perform Loan Origination Activities

such as:

- ❑ Soliciting, accepting, or offering to accept an application for a residential mortgage loan;
- ❑ Assisting a borrower, or offering to assist a borrower in the preparation of a residential mortgage loan application; or
- ❑ Negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower; then

Yes! and

There are no “1 time exemptions” for conducting activity without a license

Loan Originator Licenses

Are Not Required If:

- You are a Sole Proprietor who holds a current mortgage broker/lender license in ***your own individual birth name***, as long as you remain exclusive to yourself and do not originate for any other entity;
 - OR
- You solely perform clerical or administrative functions and do not solicit borrowers or negotiate the terms of loans on behalf of the licensee, or perform other described loan origination activities;
 - OR
- You are exempt under the IRMPA.

To Apply For A License

■ What Do You Need?

- License application fee of \$200. (Fees are non-refundable)
- Completed loan originator application form.
 - ❑ Do not leave any blanks and review it before mailing.
 - ❑ If the section required an attachment and/or explanation, is all the information included?
 - ❑ Is it signed? Notarized? Legible?
- Original mortgage loan originator surety bond, to the state of Idaho, or a Certificate of Deposit in the amount of \$10K.
 - ❑ The applicant's name must match EXACTLY to the name on the application.

License Statuses

- ❑ **Approved/license issued:** Application package is complete and employment information with mortgage broker/lender licensee has been provided/verified.
- ❑ **Unassigned:** Application package is approvable, but the originator has either not provided employment information or has changed employment, and new licensee employment information has not yet been provided/verified.
- ❑ **Pending:** Application package is incomplete or otherwise deficient. Written notification is provided to applicant via email, fax or USPS.
Watch your junk email folders for communication.
- ❑ **Denied:** Information provided, not provided or subsequently received, indicates issuance of a license is not warranted. Application is elevated to a Supervising Examiner and is also reviewed by the Bureau Chief prior to assignment to the Attorney General's office for a denial order.

Where Is My License?

- **Approved** licenses will be issued in both the loan originator's name AND the licensed "employing" mortgage broker/lender.
- **Approved** licensees will be posted to the website in real time in the "Loan Originator Licensees" section at <http://finance.idaho.gov>.
 - ❑ Loan originator listings reflect their association to a mortgage broker/lender licensee
 - ❑ Mortgage broker/lender listings reflect their associated loan originator licensees
- Hard-copy licenses are mailed to the company's designated "home/main" office for retention
 - ❑ **Companies must provide a copy of the LO license to the originator's primary licensed work location *for display in a conspicuous location***

Have A Change or Update To Your Original Application?

- Changes or updates to the content of your original application (such as address, name, phone numbers, email, background information) requires you to file an amendment update in order to keep the information current.
- Changes to a filed loan originator application, before or after issuance of a license, must be completed by filing an “amended” application form MU4.
 - ❑ Mark the “Amendment” box.
 - ❑ Complete the loan originator name and social security number, complete the section(s) to be amended, and circle the numbered section(s) to be amended/changed. (Do not circle the entire section—just the section number)
 - ❑ The amended application must be signed/notarized with the original provided to the Department.
 - ❑ No fee is charged for any amended filing.

Did You Change “Employers”?

- “Employers” must notify the Department of hirings and terminations within 30 days of occurrence.
 - Notification forms are available in the mortgage forms section on our website at <http://finance.idaho.gov>.
 - Terminations require return of the original license.
- Upon notification of employment termination, a loan originator’s license will be placed into an “Unassigned” status and inactivated until verification and notification of new employment is received.
- Upon notification and verification of “employment”, a new loan originator license will be issued in the name of the loan originator and reflecting the association with the verified new “employer”.
 - No origination activity may be conducted by any originator until a NEW license is issued.
- A loan originator license may remain in an “unassigned” status indefinitely as long as the bond/CD remains current, the license is renewed and information kept updated, and CE credits are maintained.

Employer Notification Form

Employer Notification Of Loan Originator Hire/Termination

Mortgage Brokers and Mortgage Lenders are required to notify the Department of any hire (W-2/1099/Contract) or termination of any Loan Originator within 30 days of occurrence. (Idaho Code 26-5111(2) (a) (b))

Loan Originator Name: _____
First Middle Last

Loan Originator License # or SSN: _____

Hire/Termination Information:

Date of ☐ Hire or ☐ Termination mm/dd/yyyy Eff date (if different) mm/dd/yyyy

If Termination, provide reason (*attach additional pages if necessary*):

Primary Address where Loan Originator will conduct or did conduct business:

Street Address

City

State

Zip

email

Employing Broker/Lender Information:

"Home/Main/Corporate" Office License #: _____

Name of Firm (*Legal Name and d/b/a, if applicable*)

Street Address

City

State

Zip

Contact Person Name

Phone

(include extension)

Continuing Education

■ Who Does It Apply To?

- Loan Originators
- Qualified Person in Charge (QPIC)
- Individuals Maintaining Loan Originator Licenses
 - Unassigned/Inactive Statuses

Continuing Education

- Minimum requirement of 16 credit hours must be attained within each 2-year reporting period.
 - No less than 2 credit hours related to the IRMPA and Rules.
 - No less than 14 credit hours related to approved topics.
 - Excess accumulated hours will not carry over to subsequent reporting periods.
- The first “reporting period” for credit hour accumulation, for licenses issued and QPIC designations prior to November 1, 2006, officially **begins** November 1, 2006 and ends October 31, 2008.
 - (Licenses issued (or QPIC designations) after November 1, 2006 will begin their initial reporting period on November 1, 2007, and end it on October 31, 2009.)

Who Can Provide Continuing Education?

- ❑ Presumptive accreditation of courses covering approved topics, and their providers, has been extended to these organizations:
 - NAMB, MBA (national level of Idaho Mortgage Lenders Association), NAPMW, ABA, CSBS, AARMR
 - HUD, VA, FNMA, FHLMC
 - IHFA, Regulatory agencies at state or federal level with oversight of mortgage related activity
 - Institutions of higher education (such as colleges and universities) accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state
- ❑ Other providers desiring to offer CE courses for credit will be required to submit information and course materials for pre-approval prior to offering courses for accreditation.
 - The process to apply for accreditation is being developed. The Rules became effective upon departure of the legislature on April 11, 2006. When the process is finalized, information will be made available on the Department's website.

Course Topics

- ❑ Courses in sales, increasing or building business such as lead generation, will not be approved for credit hours.
- ❑ Courses related to the following will be considered towards the additional 14 credit hours within each reporting period:
 - Mortgage industry generally
 - Loan evaluation and documentation
 - Features of various loan products
 - State and federally required disclosures
 - Ethical considerations
 - Laws related to mortgages, deeds of trust, liens, pledges
 - Real estate and appraisal law
 - Principal and agency law and contract law
 - Basics of home purchase/ownership
 - RESPA/RegX, TILA/RegZ and federal Consumer Credit Protection Act
 - Idaho Credit Code, Idaho Mortgage Company Act, Idaho Escrow Act, Idaho Financial Fraud Prevention Act and the UCCC

Loan Originators Must

- be exclusively employed (W2/1099) with ONE Idaho licensee.
- conduct origination activities from a licensed physical location of their employing (W2/1099) mortgage broker/lender licensee OR at a consumer's home or place of work, or public location, such as a restaurant.
 - PO Boxes or mail facility locations cannot be licensed.
 - If a person holds himself out as being able to make or broker loans from a *fixed physical location*, that location must be licensed, whether it is commercial or residential. A *fixed physical location* may be represented by providing any of the following information to a consumer or other party, through advertising, business cards, personal/phone contact, applications, lending disclosures, written communication, or other method:
 - *Physical address (whether commercial or residential) or*
 - *Land-line phone number or fax.*
 - *Administrative or other activity may be conducted from an unlicensed location under certain conditions. Activity solely through e-fax, e-mail or cell phone that does not connect you to a physical location may not require licensure and will be reviewed on a case by case basis.*

Loan Originators Must

- have their compensation issued to them in their own individual name as it appears on their license—not a separate legal entity, such as an LLC, SubS Corp, etc.
- *Why?*
 - ❑ *Only a licensed or exempt loan originator may originate residential mortgage loans (the separate entity is not licensed);*
 - ❑ *Only a licensed or exempt loan originator, or licensed or exempt entity, may receive compensation for origination activity;*
 - ❑ *Compensation paid to an entity, which has performed no or nominal compensable service, in relation to a residential mortgage loan, may constitute a violation of “Section 8” of RESPA/Regulation X on behalf of both the payer (employer) and the receiver (loan originator’s) entity (think “referral fee”);*
 - ❑ *No entity, other than an individual person, can be licensed as an originator as it cannot complete or maintain continuing education requirements.*

Note: Treatment of compensation checks, once received by the originator, should be discussed with your accountant or tax advisor for questions related to tax issues.

Remember...

- Mortgage brokers/lenders risk suspension or revocation of the company's license if they:
 - Allow a loan originator to conduct origination activities prior to receiving a license.
 - Training, continuing education and other non-licensable activity may be conducted.
 - Fail to notify the Department of the “employment” or “termination” of a loan originator within 30 days.
 - Fail to diligently supervise or control the mortgage related activities of the “employed” loan originator.

Important Dates to Remember

■ September 1, 2006

- Renewal applications are expected to be available
 - Renewal application plus \$100 renewal fee to be submitted by October 31st
 - Bond continuation certificate/reinstatement notice IF you have received a cancellation notice

■ October 15, 2006

- Suggested latest filing date. Licenses expire by operation of law if a completed renewal is not postmarked by the USPS (or overnight delivery service documented) or received on-line, if available, by October 31st.

■ October 31, 2006

- Renewal applications must be postmarked and complete.
- Renewal applications postmarked after this date, or incomplete after this date, expire by operation of law and accumulated continuing education credits may be lost.
 - Timely postmarked renewal packages will be reviewed and licensed after this date **ONLY** if they are complete.
 - Renewal packages postmarked by October 31st, but incomplete as received after October 31st, will expire and the loan originator must reapply.

■ November 1, 2006

- Initial continuing education reporting period begins and will end October 31, 2008.

Thank You

...remember to watch for the Bureau's newsletter published and distributed each March and September. Previous editions are available on our website at <http://finance.idaho.gov>...

...previous training presentations are available on our website--

(today's Consumer Finance Bureau portion of the presentation will be posted shortly)...



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Financial Fraud and Prohibited Practices in Mortgage Loan Origination

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“Everything is vague to a degree you do not realize till you have tried to make it precise.”

Bertrand Russell

How precisely can we identify what constitutes fraud?

What about financial fraud?

Why should it concern us?

What constitutes fraud?

- Fraud – An intentional deception employed to deprive another of his/her money, property or legal right
 - Can include misrepresentations
 - Can include omissions
 - Can include misleading persons into certain actions
 - Includes intent or a willful action to obtain a specific result

What about financial fraud?

- July 1, 2005 – Enactment of the Idaho Financial Fraud Prevention Act provides a clear definition of financial fraud
 - ❑ Employing a scheme, artifice, or device to defraud a financial institution
 - ❑ Attempting to obtain assets from a financial institution through misrepresentation, schemes, or devices
 - ❑ False representation as a financial institution
 - ❑ Obtaining personal financial information through misrepresentations
 - ❑ Utilizing the financial transaction card of another for financial gain
 - ❑ Attempting to obtain the assets of an employing financial institution while serving as an employee or agent

Why should it concern us?

- Mortgage fraud is often underreported yet may have an impact on specific markets
- Both mortgage lending and housing markets have significant impacts on the overall economy
- The pervasiveness of fraud in mortgage lending can have an impact on available lending programs, on regional property values, and on the credibility of responsible mortgage brokers/lenders in certain markets

Mortgage Fraud?

- Can occur in transactions through the actions of either borrowers or industry professionals
- Is not always readily identifiable in certain mortgage programs
- Can occur as fraud for housing
- Can occur as fraud for profit

Fraud for housing

- Accounts for approximately 20% of all mortgage fraud
- Occurs through misstatements made by borrowers
- May require supporting information from borrower references, such as:
 - Employers
 - Landlords
 - Family members

Activities associated with fraud for housing

- Misstatements within application:
 - Length of employment – work experience
 - Amount and type of assets – gift funds
 - Amount and type of liabilities – undisclosed obligations
 - Identity – loan purpose

- False documentation
 - False income statements – tax returns
 - False credit history documentation – rental history
 - False documentation of assets

Fraud for profit

- Constitutes the most significant occurrences of fraud
- Involves industry professionals including –
 - Mortgage companies or loan officers
 - Appraisers
 - Title company/Escrow officers
- Often represents a regular practice of schemes to defraud

Fraud for profit schemes

- Property flips – quick turnaround of property for highly inflated values
- Nominee loans – nondisclosure of ultimate buyer
- Equity skimming – obtaining income properties in a nominee's name without repaying the obligation

Fraud for profit schemes

- Silent second – undisclosed loan to borrower provides down payment
- Air loans – false appraisal supports loan on fictitious property
- Foreclosure schemes – obtaining property through deception

Common fraud schemes

- Property flips –
 - Property purchased at value or undervalue – appraised at an inflated value – resold quickly to unsuspecting borrowers or straw borrowers
 - Requires collusion between seller and appraiser and, may include a mortgage company, title company, and end buyer

Common fraud schemes

■ Nominee loans

- ❑ Actual buyer is not disclosed to lender through the use of a qualified, non-occupying borrower
- ❑ Use of stolen identity information to obtain housing or to promote property flipping and other fraud schemes

Common fraud schemes

■ Equity skimming

- ❑ Purchase of property through straw buyer –often includes the use of false credit and income documentation
- ❑ Title transfer to operator who rents the property without making mortgage payments until foreclosure

Common fraud schemes

■ Silent Second

- ❑ Undisclosed liability to seller or other party – occasionally a mortgage company – used as buyer's down payment for loan closing
- ❑ May also include inflation of property value to allow increases to seller carried costs without adequate disclosure to borrowers or misrepresentation of property valuation

Common fraud schemes

■ Air Loans

- ❑ Involve multiple industry professionals
- ❑ Requires property valuations that misrepresent property type or provide valuations for non-existent property
- ❑ Often includes fictitious or straw borrowers

Common fraud schemes

■ Foreclosure schemes

- ❑ “Investor” identifies and misleads borrowers who are in pre-foreclosure or default situations into transferring property to the investor in the hopes of a foreclosure rescue.
- ❑ Investor charges fees to homeowner, obtains new financing, or resells property for financial gain.

Indicators of financial fraud

■ Applications –

- ❑ Income unrealistic in relation to employment
- ❑ Recent employment of short duration or similar to various borrowers using the same mortgage company
- ❑ Borrower information not complete or differs from information obtained from other sources

Indicators of financial fraud

- Collateral –

- Appraisal values not common to market area
 - Property specifics falsified

Indicators of financial fraud

■ Credit and income

- ❑ Verifications of rents or mortgages that do not agree with other borrower history
- ❑ Bank statements, income statements, tax returns containing errors or not in agreement with other borrower information

Penalties for financial fraud

- Idaho Code §67-2755
 - ❑ Injunctions from continued violations
 - ❑ Cease & Desist orders
 - ❑ Civil Penalties between \$5,000 and \$10,000 - applicable to all parties involved in the fraud
 - ❑ Criminal Penalties

Penalties for financial fraud

- Idaho Code §26-3109
 - Revocation or suspension of mortgage broker/lender or loan originator license

Prohibited practices – reducing occurrences of financial fraud

- The Idaho Residential Mortgage Practices Act includes several prohibited practice provisions for the purpose of consumer protection
- Many of these prohibitions have the ability to reduce occurrences of financial fraud

Prohibited practices under the Idaho Residential Mortgage Practices Act

■ Idaho Code §§26-3114 & 3114A–

- ❑ Exclusive dealing or agency agreements with borrower
- ❑ Delaying closing in order to increase fees payable by borrower
- ❑ Accepting fees that had not been previously disclosed to borrowers

Prohibited practices under the Idaho Residential Mortgage Practices Act

- ❑ Obtaining agreements or instruments which are to be completed after being signed
- ❑ Misrepresenting material particulars in a transaction
- ❑ Making false promises
- ❑ Influencing the independent judgment of an appraiser

Prohibited practices under the Idaho Residential Mortgage Practices Act

- ❑ Entering into an agreement to lock an interest rate without delivering confirmation to a borrower
- Specific to loan originators
 - ❑ Being employed by more than 1 mortgage broker/lender
 - ❑ Entering into concurrent contractual arrangements to provide originating services for more than 1 broker

Prohibited practices under the Rules Pursuant to the Act

■ Rule 40 – Deceptive Advertising

- ❑ Misrepresentations in advertising
- ❑ Failing to identify pertinent information in advertising
- ❑ Bait and switch advertising
- ❑ Advertising locations that are not licensed
- ❑ Advertising in a manner that creates the appearance that a solicitation is from a government agency or mortgage holder

Prohibited practices under the Rules Pursuant to the Act

■ Rule 60 –

- ❑ Misrepresentations or omissions
- ❑ Failure to disburse funds in a timely manner
- ❑ Failure to provide borrower with an advance review of closing documents
- ❑ Require borrowers to obtain property insurance greater than the replacement value of property

For More Ideas

- Freddie Mac's Discover Gold Through Quality: Fraud Prevention Best Practices (www.freddiemac.com/dgtq)
- Mortgage Bankers of America's "Stop Mortgage Fraud" Campaign (www.stopmortgagefraud.com)
- American Bankers Association (www.aba.com)
- Idaho Department of Finance (finance.idaho.gov)